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MERIT COMMISSIONER

2007/08 ANNUAL REPORT

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Oversight and Insight into
Merit-Based Hiring in the BC Public Service

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OFFICE OF THE
MERIT COMMISSIONER

The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present the 2007/08 annual report to the Legislative Assembly. This report covers the period from April 1, 2007 to March 31, 2008.

As an Officer of the Legislative Assembly, I would be pleased to appear and report further on these matters at the request of the Assembly.

Respectfully submitted,

Joy Illington

Joy Illington
Merit Commissioner

Victoria, British Columbia
December 2008

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Message from the Merit Commissioner

Government's capacity to deliver public services to British Columbians depends on its ability to attract and keep good employees. With about 30,000 employees, the BC public service is the largest corporate workforce in the province, and it is paid with public funds. Employees are hired under the *Public Service Act*. As a general rule, public-service jobs are advertised, so that interested individuals can compete for them, and the best qualified candidate(s) are selected. As an employer, the BC public service is accountable to hire and promote employees based on the principle of merit, through a fair process, without political influence.

The Office of the Merit Commissioner provides independent oversight of merit-based staffing in the public service. We use audits to examine how positions were filled, and we review the merit of proposed appointments for bargaining-unit positions, at the request of employee applicants.

Our purpose is to produce timely and credible reports about merit-based staffing, on which government will act to produce changes in merit-based staffing performance.

The Commissioner reports the oversight results to the 79 elected representatives in the Legislative Assembly. This report is part of the accountability system for responsible government.

Audits

The annual audit focused on those appointments that tell us the most about how the merit principle is being applied. These are regular appointments and those exceeding seven months. The audit sampled one in every 10 of these appointments made in 2007, to assess whether or not they were the result of a merit-based process. BC STATS verifies that the sample was of sufficient size to reliably extrapolate the results to the larger population.

The results show both the strengths and weaknesses of the staffing system. The good news is that 80 percent of the appointments were the result of a merit-based process with no exceptions. A further 15 percent were also appointments based on merit, but the selection

process involved exceptions to policy or collective-agreement requirements. My audit reports to deputy ministers have suggested that managers be acknowledged and congratulated for the level of the positive merit findings. There was no evidence in the audit that any person was not qualified for the position to which they were appointed, or that any appointment was based on patronage. All organizational results are reported in Appendix A.

The results also point to a vulnerability in the staffing system: 2 percent of the appointments audited were not the result of a merit-based process, and in 3 percent, a determination could not be made because of lack of evidence. Taken together with the 15 percent exceptions flagged above, in a total of 20 percent of appointments, managers are not following basic hiring policy, collective-agreement or statutory obligations. This highlights a structural weakness in the staffing system at a time when hiring is on the rise. This report identifies the immediate need for systemic improvements.

In addition to the annual audit, we completed a special audit of all direct appointments made in 2007. These were permanent appointments for which specific individuals were directly selected, without an opportunity for anyone else to apply. Individual merit must be considered, and unusual or exceptional circumstances must apply. Under the *Act*, the approval of the head of the BC Public Service Agency is also required. The audit showed that an unusually small number of direct appointments were approved. There was also evidence that others were made without authorization. This report identifies the need for the agency head to take action.

The BC Public Service Agency's positive response to these recommendations is included in this report as Appendix C.

Focus Groups

There is a gap between the merit findings of our paper-based audits and what employees believe. In the public service's annual work environment survey, almost one-third of the employees who responded disagreed that merit was the basis for hiring in their work units during the past year. We reached out to employees to hear their perspectives. In 10 focus-group sessions held in three regions of the province, men and women talked about their experiences as both job applicants and hiring managers. We have included in this report a

summary of their top observations. Among those was a belief, held by 24 percent of participants – a mix of union and management employees – that they had lost a job competition because the successful candidate had been pre-selected. When the importance of a merit-based hiring system is emphasized, but some employees experience a different reality, frustration and cynicism are inevitable.

Government's plan, "Being the Best," has the goal of being recognized as the best public service employer in Canada by 2008. Credible merit-based staffing is essential to reaching that objective, and it must be embedded in the corporate culture for all to experience. For employees, transparency in hiring is linked to trust in merit.

A Century of Merit

This year marks the 100th anniversary of the principle of merit as a requirement for hiring in the BC public service, and we have some historic photos and stories on our website. These help illustrate that, while recruitment has changed over the past 100 years, merit has proved to be the foundation of a non-partisan, professional public service.

My Thanks

Special thanks are due to my staff, who planned and implemented the largest audit our Office has ever done, and who conscientiously conduct reviews and respond to all of the questions that come to our Office. I am grateful to the Audit Advisory Committee and the team of auditors for their diligence and analysis. Thanks to Maria Barrados, president of the Public Service Commission of Canada, who provided staff to audit appointments made in my Office.

Looking Forward

In 2008, we will audit temporary appointments, to examine, among other things, how and on what basis these appointments are made. We will pilot a new approach to auditing in order to produce more timely reports. The Commissioner's Office provides insight as well as oversight, as we report what we find to the stakeholders of the BC public service.

Joy Illington
Merit Commissioner

Summary of Recommendations

The 2007 audit findings confirm that, for one in five appointments, managers are not following basic hiring policy, collective-agreement or statutory requirements. This is a problem for the BC public service, in which hiring has increased by one-third each year since 2005 and is projected to continue to rise.

The results highlight a structural weakness in a staffing system that delegates responsibilities to managers, on the assumption that they know their obligations. Although the audit results show that the majority of managers know and carry out their hiring responsibilities, not all managers do. There are many new managers, managers who are new to hiring, and new advisors in the human resource community who could benefit from a better understanding of their responsibilities for merit-based hiring performance.

Given that 45 percent of all managers will be eligible for retirement by 2015, the BC public service cannot rely on passive methods to ensure that all managers know and understand the requirements of merit-based staffing. It would be a mistake to be complacent about the merit-based results of this audit and ignore the evidence of structural weakness in the staffing system. The audit identified recurring errors that need to be addressed on a systemic basis.

Following the 2007 audits, the Merit Commissioner makes the following recommendations:

Recommendation #1

It is recommended that the BC Public Service Agency provide a proactive campaign of training about the staffing process, with an emphasis on managers' accountabilities in merit-based hiring.

Recommendation #2

It is recommended that deputy ministers and their equivalents emphasize that hiring managers will be held accountable for adequate documentation as fundamental to a merit-based appointment.

Recommendation #3

It is recommended that deputy ministers and their equivalents take action to ensure that the employer's commitment through the BCGEU

collective agreement – to correctly assess years of continuous service using the "relatively equal" calculation – is fulfilled. The BC Public Service Agency should make tools available, such as an online automatic calculator.

Recommendation #4

It is recommended that deputy ministers and their equivalents hold managers accountable for communicating the outcome of competitions and offering feedback to employee applicants.

Recommendation #5

It is recommended that the BC Public Service Agency publish guidelines for the use of direct appointments. These guidelines should include information about the criteria that have been and will be used to approve direct appointments, and the process that is necessary to request a direct appointment.

The Office of the Merit Commissioner

Corporate Overview

The mandate of the Merit Commissioner is to provide oversight of and insight into the performance of merit-based hiring in the BC public service. This mandate supports our mission to serve the Legislative Assembly and, through that body, the public. We do that by providing credible and relevant information about the degree to which government is fulfilling its duty to hire and promote employees based on the principle of merit.

The Office of the Merit Commissioner is guided by the principles of fairness and impartiality. We apply to ourselves the same standards of integrity in performance and accountability that we apply to others. All those who contact the Merit Commissioner can anticipate respect and, where it is needed, confidentiality. We are passionate about our work and understand that a vital part of being independent is to have the courage to deliver facts and recommendations about what must be improved, as well as reporting progress and accomplishments.

To carry out this mandate, we focus on three business lines: the annual and special audits; independent staffing reviews; and education about the requirement of merit-based staffing, including its impact on employee engagement. The products of our work include audit reports, focus-group studies, review decisions, and educational materials. These outputs all support the long-term goal of building employee confidence and a strong consensus that staffing is based on the merit principle and fair processes. The Office works toward that goal by producing timely and credible reports about merit-based staffing on which government will act to produce changes in merit-based staffing performance.

Audits are conducted in accordance with generally accepted audit standards using methodology reviewed and supported by government's Internal Audit and Advisory Services. BC STATS ensures the necessary level of rigour and objectivity in obtaining random and representative samples. The Commissioner uses qualified performance auditors who are trained to ensure that the same standard of review is applied to all audit files.

Audit Advisory Committee

The Office incorporates quality assurance reviews into the audit process. Further consultation, advice, challenges and reviews are provided by an Audit Advisory Committee, which was formed for this principal role. In addition, the Audit Advisory Committee meets three times a year to examine the Office's work plans. The committee members were selected on the basis of their professional qualifications, relevant knowledge about the public service, and expertise with performance audits.

Appointments on Merit

The Principle of Merit

Merit has been the foundation of staffing in the BC public service for the past 100 years. Over that time, it has developed into the provision that exists today in section 8 of the *Public Service Act*. This states that all appointments to and within the public service must be based on the principle of merit.

Merit means that appointments are made on the basis of an assessment of competence and ability to do the job, and are non-partisan.

The *Act* distinguishes between permanent and longer-term temporary appointments and those that are brief, seasonal, or short-term temporary appointments. Specifically, permanent and temporary appointments exceeding seven months are to be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants. These appointments require recruitment to attract applicants. Individuals are assessed for merit against the selection criteria required for the job. A competitive process allows applicants to be rated and ranked relative to one another, so that those who are successful are the best-qualified candidates.

Employees with permanent and longer-term appointments form part of the core professional career public service on which government relies for advice and expertise. It makes sense that the *Act* sets a more rigorous standard for making these types of appointments.

Appointments for seasonal or brief temporary periods of less than seven months still need to be based on a consideration of individual merit, but they do not require a competitive process.

The *Act* also sets out a number of factors that must be considered in determining merit. These include the applicant's education, skills, knowledge, experience, past work performance, and years of continuous service in the public service.

The recruitment and selection processes that result in merit-based appointments include these essential elements: the process used to recruit, select and assess is transparent and fair; the assessment used is relevant to the job; and decisions that are made are reasonable. Merit-based hiring considers the legislation and hiring policy. Where applicable, it also considers collective-agreement requirements.

BC Public Service Staffing System Overview

The *Public Service Act* lays out the responsibilities for both the head of the BC Public Service Agency and the Merit Commissioner, each of whom is accountable for meeting their respective obligations with respect to merit-based appointments in the public service.

BC Public Service Agency Head/Delegated Authority

The agency head has broad personnel management authority in the public service, including policies and regulations, and staff training and development. More specifically, the agency head is responsible for the recruitment, selection and appointment of people to and from within the public service. The agency head is accountable to a minister whose portfolio includes the BC Public Service Agency.

The agency head has delegated the hiring and promotion functions to deputy ministers or their equivalents. The deputy ministers, acting together as a council, have developed and implemented a corporate human resource plan. The plan is designed to ensure that the public service has the leadership, motivation, skills and training to keep pace with social, economic and technological changes, and to deliver quality services to an increasingly diverse population.

Most staffing activities have been further delegated to individual managers, who are knowledgeable about the operational needs of the jobs to be done, and the qualifications required to do those jobs. Managers are guided by corporate policies and guidelines from the BC Public Service Agency, and, where applicable, by the provisions of the collective agreements.

Shared Interest

Everyone who works in the public service has a stake in merit-based hiring and promotions. Employees' opinions on merit-based and fair staffing practices are solicited every year in the Work Environment Survey. About 80 percent of the employees are represented by one of three bargaining associations, which support merit-based staffing: the BC Government Employees' Union (BCGEU), the Professional Employees' Association, and the Nurses' Bargaining Association. The BC Excluded Employees' Association also has a long record of support for merit-based hiring.

Merit Commissioner

The Commissioner provides independent oversight of the application of the merit principle in hiring and promotions. The Commissioner uses random audits to assess whether:

- recruitment and selection processes were properly applied, to result in merit-based appointments, and
- the individuals appointed were qualified for the job.

The Commissioner provides detailed audit reports to the deputy minister or head of any organization in which the Office has audited appointments. These results are meant to be shared with the hiring managers, as they have been delegated the responsibility to decide how best to recruit, assess and select applicants for appointments. An independent audit is one way in which managers can be held accountable for their results: to recognize work that has been done well, and for heads of organizations to take action so that identified problems are not repeated.

Upon an employee applicant request, the Commissioner provides a final and binding review of the application of merit for appointments to positions in a bargaining unit. Following a review, the Commissioner delivers a decision that either upholds the merit of the appointment, or directs the deputy minister to reconsider the appointment. An independent review is another way in which managers are held accountable for applying the principle of merit in their hiring decisions.

The Commissioner is accountable to all members of the Legislative Assembly and reports, on an annual basis, the results of monitoring merit-based appointments.

Table 1: Public Service Staffing System Overview	
Merit Commissioner	• Monitors and reports on merit in staffing, through random audits. • Provides final and binding decisions on merit in staffing reviews for bargaining-unit positions. • Reports annually to the Legislative Assembly.
BC Public Service Agency Head	• Sets staffing policies and the accountability framework for human resource management with the Deputy Ministers' Council. • Provides staffing support and training to client groups in the BC Public Service. • Delegates responsibilities for staffing activities to deputy ministers or heads of organizations. • Sole authorization for direct appointments in unusual or exceptional circumstances.
Deputy ministers/organization heads	• Work as a council to carry out the corporate human resource plan. • Sub-delegate staffing activities to line managers/supervisors. • Respond to the second step in a staffing review process. • Receive Merit Commissioner's decisions on audits and reviews.
Managers/supervisors	• Responsible for recruiting, selecting and appointing decisions. • Responsible for the first step in a staffing review process (i.e., providing feedback to applicants).
Employees	• Provide views on merit-based hiring and fair process by completing the annual Work Environment Survey. • As applicants, may request staffing reviews for proposed hiring or promotion decisions that they believe are not the result of a merit-based process.

Annual Audit 2007

Overview

For the annual audit, the Office has focused on the appointments that form the regular, long-term workforce of the BC public service. These appointments include permanent appointments and temporary appointments that exceed seven months. These appointments are made following a competition in which individual and relative merit are assessed, so they reveal the most information about the application of the principle of merit. These appointments accounted for about one-third of all the appointments made in 2007. Other appointments that fall under the jurisdiction of the Merit Commissioner, but were not included in this audit, were short-term temporary appointments of less than seven months, and auxiliary appointments.

The *Public Service Act* sets out this dual test for monitoring merit-based appointments in random audits:

- recruitment and selection processes were properly applied to result in appointments based on merit, *and*
- the individuals appointed possessed the required qualifications for the positions to which they were appointed.

The audits are based on the underlying premise that the manager of the position, who understands the needs of the business, is in the best position to decide what qualifications and competencies are critical for a position, and the methods that will most suitably assess them. Provided that the hiring process is reasonable and job-related, the audit is not designed to replace the judgment made by managers.

Based on the job duties and selection criteria, the auditors review the steps and decisions throughout the recruitment and selection process, to determine whether the principle of merit was upheld. For example, the auditors check to see that:

- candidates were treated consistently and fairly in screening and assessment,
- the process was transparent,
- decisions made were reasonable and documented, and
- the results communicated.

Auditors also consider whether the basic legislative, policy and collective-agreement requirements have been met.

The audit program that is used by the auditors is available under "Annual Audit" on the Merit Commissioner's website: www.meritcomm.bc.ca

Details

For the 2007 annual audit, BC STATS provided the Office with an initial 10 percent sample size of the following types of appointments made during the year: permanent appointments, temporary appointments that exceed seven months, and direct appointments. The sample ensures proportional coverage of:

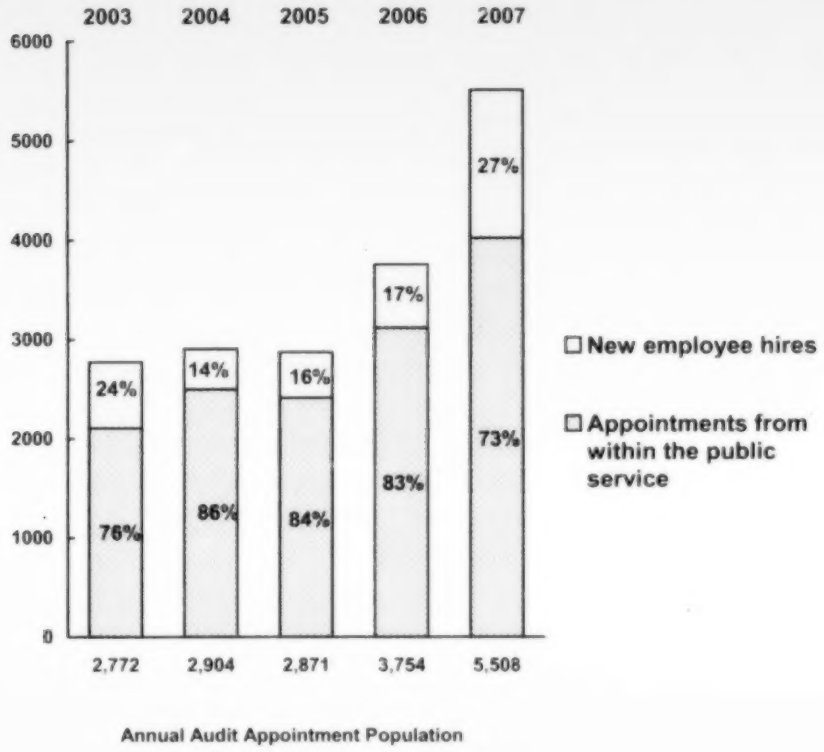
- all ministries and organizations across the public service,
- permanent, temporary and direct appointments,
- bargaining-unit and excluded appointments, and
- internal as well as external hires.

A number of sample appointments were determined to be out of scope, resulting in the audit of 531 appointments from an adjusted audit population of 5,508. BC STATS has verified that the sample was sufficiently large that results can be generalized from the sample to apply to the larger population of these types of appointments. Further details of the BC STATS methodology can be found in Appendix B.

The graph on the following page shows the year-to-year comparison of appointments made in the adjusted audit population, over the last five years (i.e., 2003 to 2007).

New employees to the public service accounted for more than one-quarter of the appointments included in the 2007 audit population.

Graph 1: Year-to-Year Comparison of Annual Audit Population



Results

Table 2 shows the overall results of the annual audit. The results show both the strengths and the vulnerabilities of merit-based hiring in 2007. First, there was no evidence that any individual was not qualified for the position to which he or she was appointed, nor did the audit find that any appointment was based on patronage.

Eighty percent of the appointments were the result of a merit-based process with no exceptions. A further 15 percent were also appointments based on merit, but they involved exceptions to hiring policy or collective-agreement obligations that require management's attention to improve.

The audit concluded that 2 percent of the appointments were not the result of a merit-based process. In these cases, there was an unreasonable selection or assessment process, factors of merit were not considered accurately, or unreasonable decisions were made that compromised the integrity of the appointment process.

In a further 3 percent of the appointments, there was insufficient

evidence or lack of documentation to determine whether or not the appointment was merit-based. Results reported by organization are included as Appendix A.

Table 2: Merit in the Recruitment and Selection Process

Conclusion	Number of Appointments	
Merit applied	423	(80%)
Merit applied with exception*	81	(15%)
Merit not applied	12	(2%)
Unable to determine	15	(3%)
Total appointments audited	**531**	**(100%)**

* Appointments in this category resulted from a merit-based process, but there were exceptions to hiring policy or collective-agreement obligations.

The statistically valid sample means that these results can be extrapolated from the audited appointments to the larger population of all permanent and longer-term temporary appointments made during 2007 (see Table 2a). BC STATS has provided the weighted extrapolations.

Table 2a: Extrapolated Results

Conclusion	Weighted Population Count	
Merit applied	4,377	(79.47%)
Merit applied with exception	846	(15.35%)
Merit not applied	111	(2.02%)
Unable to determine	174	(3.16%)
Total adjusted population	**5,508**	**(100%)**

Year-to-Year Comparison of Merit Performance

The annual audit for 2007 examined 72 percent more appointments than the Office examined in 2006. Both the sample size and the number of overall appointments made have increased year over year.

An analysis of the findings over the past five years reveals a consistent pattern of results: the "exceptions" category is not just an anomaly. This pattern represents persistent problems that require corrective action by management to improve merit-based performance.

Table 3: Year-to-Year Comparison of Merit Performance

	2003	2004	2005	2006	2007
Total number of appointments audited	40	39	70	308	531
Merit applied	39 (98%)	38 (97%)	60 (86%)	249 (81%)	423 (80%)
Merit applied with exception*	n/a	n/a	8 (11%)	47 (15%)	81 (15%)
Merit not applied	1 (2%)	1 (3%)	–	9 (3%)	12 (2%)
Unable to determine	–	–	2 (3%)	3 (1%)	15 (3%)

* The category "Merit applied with exception" was established by the Merit Commissioner on her appointment as an independent officer of the Legislature in May 2006, so there are no comparisons available for appointments made before 2005. Appointments in this category resulted from a merit-based process, but there were exceptions to hiring policies or collective-agreement obligations.

Analysis

Table 4 identifies the problem areas and provides some insight into the hiring practices of managers. These findings have been examined on a systemic basis from the point of view of improving merit performance, and for the impact that non-performance may have on the integrity of the staffing system overall.

Table 4: Findings / Reasons

Issue	Merit not applied	Merit with exception	Unable to determine	Total
Assessment	2	18	–	20
Lack of documentation/evidence	–	29	15	44
Notification	–	18	–	18
Appointment process	6	–	–	6
Qualified relatively equal calculation (BCGEU)	4	15	–	19
Standards of conduct/conflict of interest	–	1	–	1
Total	**12**	**81**	**15**	**108**

The audit results point to a vulnerability in the merit-based staffing system. In 20 percent of the appointments examined in the audit – or, by extrapolation, in an estimated 1,131 appointments made in 2007 – managers have not followed basic hiring policy, collective-agreement or statutory obligations that affect merit.

Despite having policy guidance, hiring managers made repeated errors in three areas:

- lack of documentation to support the hiring decision,
- lack of proper consideration of employees' years of continuous service for positions in the BCGEU bargaining unit, and
- lack of notification to employee applicants of the results of competitions.

Failure to improve performance in these areas will be costly in terms of reduced trust in managers' accountability for their hiring decisions. This will undermine confidence that decisions are merit-based, and, ultimately, have an impact on employee engagement.

Documentation

Accountability is a basic competency for all managers, as well as a fundamental value in the public service. The case for documentation is one of accountability: managers must be able to account for their hiring decisions.

The 2007 hiring policy had a simple, mandatory requirement: "A complete file documenting the process and decisions made must be kept of each staffing action."

Although the form and style of documentation is at the discretion of the manager, managers must be able to provide documented evidence to verify that the steps they took and the decisions they made uphold the merit principle.

More than 50 percent of the files submitted for audit were poorly documented. The Office noted that there was a direct relationship between poorly documented files and other adverse findings on merit. Auditors made considerable efforts to obtain missing information about appointment decisions, including taking verbal evidence when necessary. In 29 appointments, although the auditor was able to obtain enough information to infer a meritorious process, the level of

documentation was less than adequate. These cases were flagged "with exception." Despite the auditors' efforts, determinations of merit could not be made in a further 15 cases. By extrapolation, an estimated 174 appointments would have been so poorly documented that the Office would have been unable to determine merit.

Auditors were often told that the original hiring manager or panel members had moved on; that managers could no longer remember specific details because of the volume of hiring they were doing; that information had been stored as electronic records and erroneously deleted; or that the information was once available but had likely been misfiled. The search for further documentation impeded timely audit reports.

Why is it so important to document selection decisions?

a) Managers are expected to provide feedback to employees about their performance in the competition. Managers must also be able to provide the details if the deputy minister/organizational head holds an inquiry. Finally, they must be able to account for their decisions in case of an independent review or audit by any of the statutory oversight agencies, including the Merit Commissioner. Poor documentation undermines confidence that appointments were based on merit.

b) In this audit, there were examples of managers hiring from competitions held by other managers. Eligibility lists or pre-qualified pools were established in 40 percent of the competitions. These efficient methods of staffing can only be used when there is confidence that the original competition was based on merit. A poorly documented process will not provide that evidence. The business case for documentation is all the more important when manager turnover is increasing.

c) The annual payroll for the BC public service is more than $2 billion. When a person is offered a job, it represents a business contract for, at the very least, $33,000 a year, and for service that can last the length of a career. Hiring decisions must be documented just as seriously as long-term financial contracts, because they are part of the fundamental business of government.

Poorly documented appointment decisions do not demonstrate the public service value of accountability. To uphold the integrity of the

staffing system, deputy ministers must emphasize that hiring managers will be held accountable for adequate documentation as fundamental to a merit-based decision.

Assessing Years of Continuous Service

Under the *Public Service Act*, one of the six factors that must be considered when determining merit is an employee applicant's years of continuous service with the BC public service. Through a collective agreement with the BCGEU, the employer is required to apply a specific formula. This determines whether their years of continuous service places one qualified candidate "relatively equal" to another.

In 2007, 71 percent of the appointments audited were to positions included in bargaining units, most of which were covered by the collective agreement with the BCGEU. The "relatively equal" calculation was either not done or was done incorrectly in many cases. In 15 of those cases, although the error affected candidates' placement order in the competition, they were not disadvantaged (i.e., they received appointments). Those 15 cases were flagged "with exception." In four appointments, managers' failure to correctly apply the calculation resulted in disadvantage to one or more of the "relatively equal" candidates. Using a linear extrapolation, the Office estimated that 42 appointments were made in which the most meritorious candidate was not appointed.

Errors or failures to assess years of continuous service are not inconsequential to merit. Being placed "relatively equal" through years of continuous service can determine whether a candidate is appointed, or affect the placement order on an eligibility list for future hiring.

Managers simply didn't know of their obligations under the collective agreement, made incorrect calculations, or misinterpreted how the calculation was to be applied. For instance, in one competition, all applicants were auxiliary employees. The manager made offers to them in order of their point scores, without any consideration of their years of service. The manager thought that the "relatively equal" calculation applied to regular employees only. Had the manager applied the formula, a different candidate would have received the first offer.

Managers who have been delegated hiring authority must be held

accountable for upholding merit under the *Act* and within the context of labour relations agreements bargained by the employer.

Notification

Managers are required to notify employees who have applied for jobs, about the outcome of the hiring process. Accounting for the outcome is part of the transparency of conducting public business. This is not the secret service, it is the public service.

The 2007 hiring policy states that, "the ministry must communicate the decision to all unsuccessful employee applicants and offer all unsuccessful employee applicants the opportunity to receive feedback about why they were not offered the position."

The *Public Service Act* gives all employee applicants the right to challenge the merit of an appointment. The first step is to seek feedback from the hiring manager. The next is to ask the deputy minister to inquire into the merit of the appointment. Those applying for jobs in the bargaining unit have a further right, to request that the Merit Commissioner provide an independent review of the merit of the appointment. Failing to communicate the results of a competition impedes employees from exercising the rights accorded to them by statute, regulation, and collective agreement.

In 18 appointments audited, not all employee applicants were notified of the outcome of the competition. In those 18 competitions, as many as 103 employee applicants had not been notified.

The appointments were merit-based, but flagged "with exception" because of the lack of final notification. This circumvents employees' right to recourse and precludes the opportunity for employees to learn about their performance. When managers don't notify employee applicants of outcomes, they undermine confidence in the merit of the appointment and add to the perception that managers are not accountable for their hiring decisions.

Several organizations adopted the good practice of keeping candidates advised about their status during the course of the competition. However, informing employee applicants that they were not successful at a particular stage does not fulfill the requirement of notifying them about the appointment(s) made at the end of the competition.

One ministry followed a practice that is common in the private sector, advertising that only short-listed candidates would be notified further. This practice is inconsistent with the obligations of managers in the public service to notify all employee applicants of the results.

Where employee applicants were notified, the auditors noted many times that full disclosure of the results were not given. For instance, employees were told about an initial appointment, but not that an eligibility list had been established. This lack of transparency does not engender trust in the integrity of the hiring system. Full disclosure is a simple way to help reinforce confidence in the merit of staffing decisions.

How many employee applicants are adversely affected by the failure to notify? From the 18 competitions in which no final notification was given, it is estimated that there were 170 competitions in 2007 in which employee applicants did not receive notification of the outcome or an offer of feedback. This most certainly involved hundreds of employees. And *each time* a manager does not notify employee applicants of the results of a competition, it damages the reputation of the BC public service as an employer – an employer that is failing to help its own employees obtain feedback on their applications and their aspirations. Government's corporate human resource plan includes the goal of building internal capacity through employee learning and career development.

The BC Public Service Agency advocates a best practice of contacting all applicants to inform them of the outcome of competitions, as a way of keeping people interested in the public service as a career. The public service is lagging far behind that best practice.

The above analysis deals with the three most-frequently repeated errors, leading to findings of exceptions or instances in which merit has not been applied. These errors are not difficult to address on a systemic basis. Recommendations for making immediate improvements in these three areas are included at the end of this "Analysis" section.

The following sections deal with other areas identified in Table 4 in which managers have made serious errors in merit performance.

Appointment Process

Some appointments reflected a lack of understanding about the most basic requirements under section 8 of the *Act*. There must be recruitment to attract interested applicants, and assessment for merit relative to each other so that the best qualified people are selected. There is no requirement to advertise everywhere to everyone, but a merit-based process must use a reasonable and transparent approach to attract an appropriate candidate pool with the necessary skill set, given the requirements of the position, the organization, and the public service.

In the 2007 annual audit, the Office found that merit did not apply in six appointments audited, because they were not the result of a legitimate merit-based process.

In four of these six cases, the organizations directly appointed the individuals into their positions without competition. In two of these cases, the organizations provided evidence to the Office of the Merit Commissioner to confirm how the individuals met the factors of merit and the exceptional or unusual circumstances that precipitated the need to hire the specific individuals without competition. A legitimate appointment option for those managers to pursue would have been to submit those criteria to the head of the BC Public Service Agency, as a request for a direct appointment under section 10 of the *Act*.

In another case, the appointment audited was the result of a posted competition, but the Office found the recruitment process unreasonable. As part of a government-wide initiative to reduce the number of auxiliary staff working in ongoing positions, a ministry advertised that several regular positions were available in different locations. The restrictions placed on the opportunity to apply were so severe that the only employee eligible to apply for each available vacancy was the current auxiliary incumbent. The appointments were considered a foregone conclusion, and the Office found that the process was not a genuine competition.

In the sixth case, an employee who had recently resigned was appointed directly back into her former position, without competition. The organization relied on a clause in the BCGEU Master Agreement to support the appointment decision. Article 11.4, "Re-employment," allows employees who are rehired within 90 days of their resignation to retain their previous seniority and benefits, by treating the period

of time absent as a leave of absence without pay. It deals strictly with the treatment of seniority and benefits when there has been a short break in employment; there is no provision to allow for the circumvention of a merit-based hiring process.

Despite the government policy change in 2006, that all competitions would be open to external candidates, 10 percent of audited competitions in 2007 were restricted to employees, or further, to organizational units, geographical locations, or groups of employees.

Assessment

Managers are responsible for determining the critical qualifications required for a job and the assessment tools to effectively assess candidates' knowledge, skills and abilities. Assessment of candidates must be reasonable, objective and job-related. The factors of merit must be considered.

This year, as in previous years, managers used a variety of methods to assess candidates and differentiate among them to select those best qualified. Candidates were assessed using online application systems with applicant questionnaires, pre-screening tests and interviews. Candidates were asked to prepare essays, case studies, letters and briefing notes, to make presentations, and to provide previous work samples. All managers provided evidence that past work performance checks had been made. The majority of the competitive processes used more than one assessment method, with 69 percent using either written exams or oral presentations in addition to interviews. Multiple assessment methods add credibility and validity to the appointment process.

In 15 percent of the competitions, only behavioural-competency–based interviews were used.

Competitions are designed to result in the selection of the best-qualified candidates for appointments. Of note in this audit: in 8 percent of the offers made, the best-qualified candidates declined the offer.

The auditors flagged instances in which those applicants whose education and experience exceeded the advertised criteria had been noted as "over-qualified." In one case, where this was the sole reason that some candidates were not short-listed, the appointment was found not to be the result of a merit-based process. Candidates who

meet and exceed the criteria set by the manager as necessary for doing the job ought to be given the opportunity to demonstrate their competencies, through assessment. It is important that the manager put thought into describing the required criteria accurately and to assess the candidates' qualifications against these criteria.

A number of managers utilized a short-listing practice that the Office found unreasonable. The managers short-listed candidates solely on the basis of paper résumés, for such criteria as verbal skills, enthusiasm and initiative. This is not an objective basis for short-listing, as it is not possible to confirm verbal skills accurately from a paper résumé. There is also the potential for applicants to misrepresent themselves by embellishing or omitting information on their application. That is why knowledge, skills and abilities are factors that should be specifically assessed. When the auditors encountered this practice, they reported its shortcomings and checked to confirm that no candidate was appointed solely on the basis of a paper assessment.

In one case, the assessment of candidates, scoring methodology, and lack of rationale to support the differentiation of candidates was not demonstrated to be objective or reasonable. The appointment was not found to be the result of a merit-based process.

As in previous years, the auditors found calculating errors in scoring. Where errors affected candidates' final rank order, but not the end result, the cases were flagged "with exception." Since candidates' scores determine their placement relative to other candidates in a competition, managers must take more care. Even a minor error could compromise the integrity of the assessment process.

Standards of Conduct

The standards of conduct for public service employees are based on the principle that employees must observe the highest standards in order to foster the public's trust and confidence in the public service. The standards define a "conflict of interest" as including actions that could result in the perception of conflict between the employee's responsibilities and private interests.

The process in one appointment was found to be affected by a perception of a conflict of interest. The auditor noted that an employee who was an applicant in the competition (and placed second) was involved in the

administration of the competition by e-mailing the mandatory questionnaires to the applicants. The auditor was assured by the hiring manager that the candidate was not involved in the competition in any other way. Neither the employee nor the manager acted to avoid a perception of conflict. As the perception of conflict clouded the objectivity of the process, the appointment was flagged "with exception."

It should be noted that two appointments made in the Office of the Merit Commissioner were randomly selected for the 2007 audit. To ensure independence, the Merit Commissioner asked the Public Service Commission of Canada, the body responsible for auditing federal public-service appointments, to supply an independent auditor. The quality manager from the Government Wide Audit and Evaluation Directorate, Ross Meehan, audited these two appointments, using our audit program, and provided written reports. One appointment was found to be based on merit, and the other, a lateral transfer, was not within the scope of the audit. These are reported with all of the other audit results in this report. This action, to involve a completely independent auditor, avoided a conflict of interest and held the Merit Commissioner accountable for making merit-based appointments.

Recommendations

Recommendations for Systemic Improvements

The following recommendations address the top-three recurring errors and are not difficult to immediately implement on a systemic basis:

1. ***Documenting all appointment decisions:*** Deputy ministers and their equivalents must emphasize that hiring managers will be held accountable for adequate documentation as fundamental to a merit-based appointment.

2. ***Assessing Years of Continuous Service:*** Deputy ministers must take action to ensure that the employer's commitment through the BCGEU collective agreement – to assess years of continuous service using the "relatively equal" calculation – is fulfilled. The BC Public Service Agency should make tools available, such as an online automatic calculator.

3. ***Notification:*** Deputy ministers and their equivalents must hold managers accountable for communicating the outcome of competitions and offering feedback to employee applicants.

Overall Recommendation

The 2007 audit findings confirm that, for one in five appointments, managers are not following basic hiring policy, collective-agreement or statutory requirements. This is a problem for the public service, in which hiring has increased by one-third each year since 2005 and is projected to continue to rise.

The results highlight a structural weakness in a staffing system that delegates responsibilities to managers, on the assumption that they know their obligations. Although the audit results show that the majority of managers know and carry out their hiring responsibilities, not all managers do. There are many new managers, managers who are new to hiring, and new advisors in the human resource community who could benefit from a better understanding of their responsibilities for merit-based hiring.

Given that 45 percent of all managers will be eligible for retirement by 2015, the BC public service cannot rely on passive methods to ensure that all managers know and understand the requirements of merit-based staffing. It would be a mistake to be complacent about the merit-based results of this audit and ignore the evidence of structural weakness in the staffing system.

The Merit Commissioner's overall recommendation is that the BC Public Service Agency provide a proactive campaign of training about the staffing process, with an emphasis on managers' accountabilities in merit-based hiring.

2007 Special Audit of Direct Appointments

Overview

The appointment of a specific person directly to a position, without any opportunity for others to compete, is a departure from the general rule of public recruitment and competition. It is permitted under section 10 of the *Act* when three criteria are met: it must be based on the principle of merit; there should be unusual or exceptional circumstances; and it must have the approval of the head of the BC Public Service Agency. The agency head's exclusive authority acts as a check on potential political or bureaucratic patronage and provides an additional measure of accountability for this type of appointment. The hiring manager is required to assess the person by considering the factors of merit: education, skills, knowledge, experience, past work performance, and years of continuous service in the BC public service. Once a manager is satisfied that the individual is qualified, that manager must seek and obtain the approval of the agency head.

During 2006, there were 49 direct appointments made to permanent positions in the public service. The Merit Commissioner notified the BC Public Service Agency head about a planned special audit of all direct appointments for 2007. The purpose of the special audit was to investigate how all direct appointments were made in 2007, and to determine whether the appointments met the application of the merit principle.

This audit was initiated in response to evidence that managers, human resource consultants and employees do not understand the process for making direct appointments. There is little information available to explain when this type of appointment is an option, how to apply for approval, and what criteria the agency head uses to approve or withhold approval of requests. By the very nature of the process, direct appointments are not transparent. This may give rise to the perception that the merit principle has not been applied in direct appointments. Further, there is no right of review provided for these appointments, unlike those made through a competitive process.

Details

It is noteworthy that the number of direct appointments dropped dramatically from 49 in 2006, to just four in 2007. The Office audited all four.

Table 5: Direct Appointments by Organization		
Organization	**2006**	**2007***
Aboriginal Relations and Reconciliation	4	
Advanced Education	1	
Agriculture and Lands	2	
Attorney General	2	2
BC Pension Corporation	1	
BC Public Service Agency	3	
Children and Family Development	1	
Citizens' Services	1	
Community Services	1	
Employment and Income Assistance	12	
Environment	2	
Finance	2	
Health	1	
Integrated Land Management Bureau	1	
Labour	4	
Office of the Premier	1	
Public Safety and Solicitor General	4	
Tourism, Sport and the Arts	3	1
Transportation	3	1
Total	**49**	**4**
Appointments to bargaining-unit positions	10	1
Appointments to excluded positions	39	3

* The appointments were identified from the CHIPS database and cross-checked with records from the agency head.

Results

The audit evidence clearly demonstrates the following:

- Three of the appointments had the approval of the agency head, as required by law. One did not.
- All four people were qualified for the positions to which they were permanently appointed.
- Three were already employees of the public service, and one was a contractor prior to the appointment.
- There was no evidence of patronage.

Analysis

The small number of direct appointments in 2007 provide little evidence of what might be considered by the agency head as unusual or exceptional circumstances. One employee had taken a voluntary demotion as a result of medical issues, and was subsequently directly appointed to a more suitable position classified at the employee's former level. The remaining three individuals had specific skills for which there was an operational need.

In each of the direct appointment requests, the deputy minister wrote to the agency head to confirm the proposed appointee's qualifications for the job. In three of the four cases, the agency head marked the request "approved." This approval was kept in the appointment file, as evidence that authorization had been provided for the direct appointment.

In the case of the appointment that was not authorized by the agency head, the ministry had requested the direct appointment because of the individual's specialized knowledge, which was required for the position. The ministry estimated that there were "only a handful of individuals" in Canada with the knowledge and abilities to effectively carry out the duties of the position. The BC Public Service Agency incorrectly advised that there was no need to obtain the agency head's permission; that it was possible for the ministry to appoint that employee permanently under section 8 of the *Act*. The audit confirmed that this appointment did not meet the requirements of section 8, because the ministry made no effort to recruit by reaching out to the "handful" of qualified individuals to determine interest or to "exhaust the market." A direct appointment under section 10 would have been appropriate.

A direct appointment is a legitimate option available under the *Public Service Act*. It is important that managers, human resource consultants and employees understand the conditions under which this option can be requested.

The annual audit results in 2007 provided some interesting insight on the dramatic drop in the number of direct appointments, from 49 in 2006 to just four. There were six cases identified in the annual audit in which specific people received permanent appointments without a valid recruitment process. The Office found that these appointments were not the result of a merit-based process. Through extrapolation, it is estimated that there were 48 appointments made in which

managers just selected a particular individual for a permanent job, without offering the opportunity to others.

These appointments were made without the controls that the *Act* has provided for a direct appointment: merit, unusual or extraordinary circumstances, and the check on patronage that the agency head provides. This evidence makes it more important than ever for the BC Public Service Agency to provide guidelines to help managers choose the right appointment options.

Recommendations

It is the Merit Commissioner's recommendation that the BC Public Service Agency publish guidelines for the use of direct appointments. These guidelines should include information about the criteria that have been and will be used to approve direct appointments, and the process that managers need to follow to request a direct appointment.

Staffing Reviews

Overview

Since December 2003, the *Public Service Act* has given employees who are unsuccessful applicants in a competition the right to request a review of a hiring or promotion decision. The request must relate to the grounds that the appointment did not comply with the test of merit: that the individual was qualified for the job, and that the selection process was merit-based.

There is a two-step internal staffing review process, which begins with a request for feedback on the employee's own performance, from the hiring manager. This is followed by an inquiry by the deputy minister into the application of the principle of merit. For employees who are applying for an excluded position, the deputy minister's decision is final.

For employees who are applicants to bargaining-unit positions, there is a third step: a review by the Merit Commissioner. The comprehensive review starts with the employee who requests the review and includes, but is not limited to, all documentation related to the staffing process. The Merit Commissioner may request additional information, including verbal evidence to support the documentation. Discussions may take place with the manager responsible for the appointment decision, or with others involved in the assessment. These discussions help the Merit Commissioner identify the issues and establish facts. After completing this review, the Merit Commissioner may direct that the appointment or proposed appointment be reconsidered, or find that it was based on merit. The Merit Commissioner's decision is final and binding.

A timely decision is important to both the employee who is concerned about the outcome, and the ministry or organization, for operational requirements. The Merit Commissioner committed to issuing a written decision on all review requests within 30 days of receipt. The Commissioner met this performance measure in all but one review, which took 34 days.

The Merit Commissioner follows-up directly with the employee who requested the review. A voluntary survey provides the employee with the opportunity to share his or her views about the services of the Office, and a chance for the Merit Commissioner to confirm that there have been no adverse consequences for the employee who requested the review.

Decisions

Requests Filed in the 2007/08 Fiscal Year

During the 2007/08 fiscal year, the Merit Commissioner received 11 individual requests for review. One request was deemed ineligible, because the individual was not an employee. Ten decisions were issued by March 31, 2008, each involving one competition. The appointments involved six ministries. In all 10 of the decisions, the Merit Commissioner found that the appointments that were made were the result of a merit-based process.

Table 6: Year-to-Year Comparison of Staffing Reviews

Fiscal Year	2004/05	2005/06	2006/07	2007/08
Requests for review received	32	12	15	11
Requests for review outstanding from previous fiscal year	–	16	4	–
Requests for review ineligible or withdrawn	5	1	1	1
Total eligible requests for review	27	27	18	10
Decisions issued*	11	22	18	10
Decisions deferred to next fiscal year	16	4	–	–
Appointments complying with merit	7	21	17	10
Appointments not complying with merit	2	–	1	–
Inconclusive	–	1	–	–

* Decisions issued may reflect requests for review from employees on multiple competitions, and/or on competitions involving a request for review from more than one employee.

Observations

Employee applicants submit requests for review of hiring or promotion decisions because they believe that the appointments are not merit-based. Review decisions, together with audit findings, give deputy ministers and hiring managers an independent indication of how their organizations are managing hiring processes.

The review is guided by the requirements of legislation, hiring policy and collective agreements. The review acknowledges that managers have been delegated staffing authority; they are responsible and accountable for staffing decisions. Review by the Merit Commissioner is not intended

to be a substitute for managers' judgment. Reviews are designed to determine whether or not the appointment was the result of a fair and reasonable merit-based staffing process. In a review, the Merit Commissioner considers whether the values that are integral to merit-based hiring – consistency, transparency, fairness, reasonableness and relevance – have been applied.

This year, more than half of the reviews included some aspect of the use and assessment of competencies. Some of the employee applicants were not aware of the detailed information that is available about competencies on the BC Public Service Agency's website. Some were experiencing behavioural-event interviewing for the first time. Some applicants assumed that, because they had been acting in the position for some time on a temporary basis, they should get the job. Often, applicants thought that insufficient emphasis had been placed on their experience. The Merit Commissioner provided information to employees about their own performance, how they were assessed by the panel, and whether that assessment was reasonable.

Two employees questioned whether the successful candidates had the qualifications to do the job. Freedom of information and protection of privacy legislation prevents the Merit Commissioner from disclosing other candidates' personal information. However, the Commissioner did confirm that the individuals who were appointed were qualified for the positions.

The Merit Commissioner noted two concerns during 2007/08. In one review, the feedback from the manager (i.e., the first stage of the review process) was given 45 days after the employee requested it. The deputy minister acknowledged that this was an unacceptable delay and took steps to ensure that all managers were aware of the importance of timely feedback to employee applicants' confidence in the process.

In a second case, an employee was concerned that the successful candidate was appointed to the position while it was under review. In this case, for operational reasons, the successful candidate was temporarily appointed, pending the outcome of the staffing review. The Merit Commissioner confirmed to the employee and to the ministry that an appointment does not act as a bar to a review by the Merit Commissioner. The appointment under review must be reconsidered if there is a finding that the appointment was not merit-based.

Right to Request a Review

There is no formal method for informing unsuccessful employee applicants that there is a right to request a review provided for by the *Public Service Act*. Employee applicants do not typically receive this information when they receive notification of the results of the competition. The onus has been placed on employee applicants to find out for themselves about the steps for a merit review. (Those steps are outlined on the website of the BC Public Service Agency, and on the Merit Commissioner's website.)

During 2007/08, only 10 employees requested a review. This was despite the fact that one-third of the respondents who work in bargaining-unit positions stated, in the annual Work Environment Survey, that they do not agree that the process of selecting a person for a position in their work unit is based on merit.

The reasons for the small number of requests for review are open to speculation. The appointments may, in fact, have been merit-based. There may have been requests for internal reviews, and the issue was resolved at step 1 or 2. The reviews that have come to the Merit Commissioner show that deputy ministers have undertaken their inquiries seriously, with sincere concern that employees have confidence in merit-based hiring. Employees may not know that they have the right to request a review, or they may be reluctant to exercise that right, out of concern that it might have negative consequences for their current employment or future opportunities. They may believe that the outcome of a review will be a foregone conclusion. Employees may also choose to not proceed with a review because, currently, there are many other employment opportunities within the public service.

The analysis of the 2007 audit results shows that hundreds of employees are not contacted about the outcome of competitions. Given that an increasing number of employees are new to the public service, the Office has concluded that it is time to test whether employees are knowledgeable about the statutory right to request a review of a hiring decision. That work will begin in 2009/10.

One of the purposes of the *Public Service Act* is to recruit and develop a well-qualified and efficient public service that is representative of the diversity of the people of British Columbia. A government

initiative in 2006 opened all competitions to external candidates. However, the *Public Service Act* limits the right to request a review to employee applicants. There is no formal recourse provided to an external candidate who believes that a hiring decision was not merit-based. For those external applicants who are not satisfied that the principle of merit was applied, a current option is to request that the Office of the Ombudsman investigate whether or not the actions of the manager were administratively fair.

In 2007, 90 percent of the competitions that the Office audited were open to external candidates. This external recruitment raises the issue about whether the right to challenge merit in a hiring decision should be opened to all applicants. Shouldn't all applicants have a right to be assured that the public service offers a merit-based hiring system? In 2009/10, the Merit Commissioner will canvass this issue with stakeholders of the BC public service.

Public Service Focus Groups

Seventy percent of all regular and auxiliary employees responded to the 2007 annual Work Environment Survey. Just 43 percent of them agreed that, in their work unit, the process of selecting a person for a position is based on merit. About 31 percent of respondents disagreed, and 25 percent were neutral. To gain further insight into the reasons for these responses, the Merit Commissioner hired a third party to conduct focus groups with a random selection of employees. Participants were asked to share their thoughts about and experiences with hiring and promotions in the BC public service.

Ten focus group sessions were conducted in the summer and fall of 2007 in Prince George, Victoria, Kelowna and Vancouver. Four sessions were attended by employees in bargaining-unit positions, four by management employees, one by employees with between three and nine years' service, and one by auxiliary employees. The 76 people who took part represented different ministries, job classifications, ages and genders.

The participants were asked about their understanding of merit and their experiences with hiring and promotion practices in their workplaces. This included their perspective of being an applicant, a hiring manager, or a colleague in the workplace where an appointment was made. Their personal stories and observations provided valuable insight into the staffing system. While this cannot be extrapolated to apply to the entire public service, some common themes did emerge:

1. ***The meaning of "merit":*** Participants used more than 80 different words to describe what the term "merit" means to them. Definitions varied from "experienced" and "qualified," to "earned" and "worthy." Managers should not assume that employees are working to a common definition of merit-based hiring.

2. ***The importance of communication:*** The importance of communication by managers cannot be underestimated. Participants emphasized the value to candidates of outlining the hiring or promotion process, and for communicating the reasons for selecting a particular candidate. Employees do not automatically assume that merit was the reason for the selection when those with staffing authority do not communicate how or if a meritorious process was used.

The focus group results also show that employees placed a high value on receiving honest and constructive feedback about their performance as applicants. Receiving such feedback can make the difference between retaining an engaged employee who is interested in a career in the public service, and one who is not.

3. ***The stress of job interviews:*** The majority of participants found the assessment process to be a stressful experience. Many focus group participants described the interview process as rigid or coldly impersonal. Nearly one-third of the management participants cited their job interview performance as the reason they were not awarded a job. Participants were also concerned about the length of time it took for the hiring organization to complete the assessment and selection process and notify them of the results.

4. ***The perception of "pre-selection":*** Nearly one-quarter of all the participants (i.e., 24 percent), believed that they were unsuccessful in a competition because the results were pre-determined. The reasons for concluding that the competitions were unfair ranged from the use of job descriptions with qualifications that few other people had, to interview questions designed to give the pre-selected candidate an advantage, to pressure being put on hiring panels to favour a certain individual. Participants commented about how this pretence of fair competition frustrated applicants and negatively affected morale and employee engagement.

The full report of the focus group sessions is available under "Publications" on the Merit Commissioner's website: www.meritcomm.bc.ca

Celebrating 100 Years of the Merit Principle

During the second year of the independent Office of the Merit Commissioner, the Office celebrated a very special date: 100 years since merit in hiring in the BC public service was introduced in legislation. In 1908, to be appointed as a clerk in the public service, applicants had to have a certificate of good health and good character and pass a competitive exam. For the first time, managers had a pool of candidates to assess, and they had to select those with the best qualifications. Prior to this, the political party of the day hired the public service. Introducing the concept of merit was not without its controversy at the time, but the legislation marked the beginning of the development of a professional and non-partisan public service.

Province of British Columbia
A Proclamation

This 100th anniversary created an opportunity to recognize the historic roots of merit. Our celebration has included:

- receiving a Cabinet proclamation of the "Centenary of Merit in the BC Public Service" (at right),
- the Premier highlighting merit at the Premier's Awards and during Public Service Week,
- communicating the history of merit-based hiring with employees through the intranet site @Work,
- researching and interviewing former public servants,
- creating a historical slideshow for the Merit Commissioner's website which celebrates 100 years of merit,
- engaging employees by encouraging participation through suggestions,
- making a joint presentation with the president of the Public Service Commission of Canada at a national public-sector conference,
- making a presentation sponsored by the Institute of Public Administration of Canada (Victoria), and
- hosting an open house at the office of the Merit Commissioner.

Outreach

This year, the Office focused its outreach efforts on increasing education and awareness of the value of merit-based hiring for public service employees in general, and for hiring managers in particular. It also raised the profile of the Office provincially, nationally and internationally through various speaking engagements. Outreach activities included the following:

Engaging with Employees in Regions and at Their Workplaces

The Merit Commissioner directly engaged employees to obtain their views on what was going right in merit-based staffing practices, and what needed to be improved. The Commissioner travelled to Prince George, 108 Mile, Kamloops, Surrey, Vancouver and Burnaby for these lively question-and-answer discussions. She also met with the Executives of the ministries of Environment and Finance to discuss audit and review results. In addition, seven ministries coordinated group sessions for their employees to meet with the Merit Commissioner, to gain insight into the impact that merit-based hiring can have on employee engagement. The Commissioner met with the Strategic Human Resource Council in Victoria to discuss lessons learned from audits, so that changes could be made to improve future hiring practices.

Training Managers

The course, "Managing in the BC Public Service" includes a specific section about the role of the Merit Commissioner. The Commissioner or her staff attended six classes with managers from throughout the province. The managers learned that their hiring decisions were subject to oversight, through audits and reviews.

Raising the Profile of the Office

The Merit Commissioner is a champion for the application of merit in the hiring and promotion processes of the BC public service. She has discussed her role with students who are considering the public service as a career option: those with a human resource specialty in Master of Business Administration courses at Thompson River University, law students at the University of Victoria's Faculty of Law during Public Service Day, and student interns of the Legislative Assembly.

The Merit Commissioner and the BC Public Service Agency head made a joint presentation to the "Change Management Conference" in Calgary. The conference was sponsored by the Conference Board of Canada. The presentation highlighted how merit in staffing decisions can affect the retention and recruitment of employees. The presentation was positively received by both public- and private-sector participants. This led to another joint presentation by the president of the Public Service Commission of Canada and the Merit Commissioner, about the role of merit in an era of change, at a national public-sector conference in Ottawa.

Governments around the world are recognizing the importance, to well-functioning democracies, of a public service that is hired and promoted on the basis of merit. During this year, the Merit Commissioner met with a delegation of deputy ministers from the Russian Federation. They were studying anti-corruption measures and public-service reform in Canada, sponsored by the Canada School of Public Service. The delegation viewed the Merit Commissioner's office as an example of best transparency practices in a system of responsible government. The national president of the Institute of Public Administration of Australia also visited the Merit Commissioner to learn more about the unique role this Office exercises in ensuring accountability in the hiring of a well-qualified public service.

The Merit Commissioner was honoured to be asked to help select the winner of the Institute of Public Administration of Canada (IPAC) Lieutenant-Governor's Silver Medal for 2007. The Medal is awarded for distinguished leadership in public administration in the province.

Budget and Resources

Every year, the Commissioner provides a service plan and proposed budget to the Select Standing Committee on Finance and Government Operations, an all-party committee of the Legislative Assembly. The committee reviews the plans and the achievements to date and decides on the resources for the future operation of the Office of the Merit Commissioner.

In 2007/08, the budget was allocated based on expanding the staff of the Office to three, to include a performance auditor. The audits are carried out by contracted professionals who have audit and human resource backgrounds. The addition of a staff performance auditor helped with the increasing workload of larger audits and comprehensive reporting to organizational heads.

The budget also provided for the development of a reliable and proven database for tracking the record of merit performance from audits, year over year. The database enables the Office to make comparisons and analyses.

The Office's expenditure for 2007/08 was $807,000. The budget was underspent by $26,000. Annual and special audits accounted for two-thirds of expenditures and two-thirds of staff time. Staffing reviews, research and communications accounted for another person's time. Professional training, travel, and merit promotion and education accounted for the balance of the budget expenditure. The operational costs of the office are kept modest by using a shared-services agreement to purchase administrative, financial and information technology support from the Office of the Ombudsman.

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Appendix A: 2007 Audit Results by Organization

Organization*	Merit applied	Merit with exception	Unable to determine	Merit not applied	Total
Ministries					
Aboriginal Relations and Reconciliation	5	2	0	0	7
Advanced Education	7	0	0	1	8
Agriculture and Lands	5	0	0	0	5
Integrated Land Management Bureau	8	0	0	0	8
Attorney General	34	5	3	1	43
Children and Family Development	52	7	1	1	61
Community Services	6	0	0	0	6
Economic Development	5	1	1	0	7
BC Olympic Games Secretariat	1	0	0	0	1
Education	10	0	1	0	11
Employment and Income Assistance	19	13	0	2	34
Energy, Mines and Petroleum Resources	7	2	0	0	9
Environment	17	6	0	0	23
Environmental Assessment Office	0	2	0	0	2
Finance	11	0	0	0	11
Forests and Range	38	4	0	1	43
Housing and Construction Standards	1	4	0	0	5
Health	15	4	4	0	23
Labour and Citizens' Services					
Labour	5	1	0	0	6
Citizens' Services	24	9	2	1	36
Office of the Premier					
Cabinet Operations	1	0	0	0	1
Climate Action Secretariat	0	0	1	0	1
Deputy Minister Policy Secretariat	0	0	0	0	0
Intergovernmental Relations	2	1	0	0	3
Public Safety and Solicitor General	39	12	1	3	55

Organization*	Merit applied	Merit with exception	Unable to determine	Merit not applied	Total
Liquor Distribution Branch	16	0	0	0	16
Small Business and Revenue	18	1	0	0	19
Tourism, Sport and the Arts	4	0	1	1	6
Transportation	26	1	0	0	27
Agencies, Boards and Commissions					
BC Pension Corporation	8	1	0	0	9
BC Public Service Agency	15	1	0	0	16
Financial Institutions Commission BC	3	0	0	0	3
Forest Practices Board	1	0	0	0	1
Oak Bay Lodge Continuing Care Society	1	1	0	0	2
Provincial Capital Commission	1	0	0	0	1
Public Sector Employers' Council	1	0	0	0	1
Royal BC Museum	4	0	0	0	4
Tillicum and Veterans Care Society	1	0	0	0	1
Independent Offices					
Auditor General	2	2	0	0	4
Elections British Columbia	1	1	0	1	3
Information and Privacy Commissioner	3	0	0	0	3
Merit Commissioner	1	0	0	0	1
Ombudsman	3	0	0	0	3
Police Complaints Commissioner	1	0	0	0	1
Representative for Children and Youth	1	0	0	0	1
Totals	**423**	**81**	**15**	**12**	**531**

TOTAL APPOINTMENTS AUDITED: 531 (Excludes 44 sample appointments deemed out of scope.)

Note: There was no evidence to indicate that any individual was unqualified for the position to which he or she was appointed, or that the selection was based on patronage.

* Organizations were those in effect during the 2007 calendar year.

Appendix B: BC STATS Report

BC STATS

RANDOM SELECTION FOR MERIT PERFORMANCE AUDIT 2007

Prepared for the Office of the Merit Commissioner

October 2008

Background

The Office of the Merit Commissioner was established by legislation in August 2001. Under this legislation, the Merit Commissioner is responsible for performing audits of public service appointments, as part of a program of monitoring the application of the merit principle across government. The results of the audits are reported to senior management in ministries and other organizations covered by the *Public Service Act*. In aggregate, the results are also communicated to the Legislature as part of the annual report of the Commissioner.

The audits are designed to assess whether recruitment and selection practices have resulted in appointments based on merit, and whether individuals possess the required qualifications for the position to which they were appointed. This requires a close study of the details of each appointment by an expert in the staffing process.

BC Stats has undertaken to ensure that the selected cases are both random and representative. This paper describes the appointments that have taken place in the past year, and explains the method that was used to make an audit selection from these appointments.

Between 2001 and 2005, the resources available for auditing were limited and the number of appointments audited were constrained accordingly. With the 2006 appointment of the first Merit Commissioner to be an independent Officer of the Legislature, the annual audit has increased in size. The sample rate was increased such that it was robust enough to generalize the audit results to the population of appointments with greater certainty. Further, the population of appointments, from which the sample is taken, has grown due to increased hiring activity. Continuing in 2007, expanded recruiting efforts resulted in an estimated 5,508 new appointments, of which 531 were audited.[1]

Audit Size	Year	# of Appointments	# of Audits
Limited	2001	1,481	39
	2002	1,835	30
	2003	2,772	40
	2004	2,904	39
	2005	2,871	70
Increased	2006	3,754	308
	2007	5,508	531

[1] See "Random Selection of Cases" for a full discussion of the number of appointments originally put forward for audit. A certain proportion, upon review, was deemed out of scope and this proportion was then estimated back into the original population.

Appointments 2007

Appointments were selected based on the 2007 calendar year. In 2007, according to the query parameters as established by the Office of the Merit Commissioner, 5,752 appointments were identified. Appointments through Order-in-Council (OIC), lateral transfers, auxiliary appointments, and temporary appointments of less than seven months are not covered in this study.

These 5,752 appointments spanned 240 job code descriptions in 36 ministries and organizations covered by the *Public Service Act*. The most common job titles were "Business Leadership" and "Applied Leadership" with 654 and 359 appointments respectively.

Ministries with the highest number of appointments, collectively comprising 52% of all 2007 appointments, are summarised in the table below:

Ministry	# of Appointments	% of all Appointments
Public Safety & Solicitor General	807	14.03%
Child & Family Development	723	12.57%
Forests & Range	572	9.94%
Attorney General	487	8.47%
Labour & Citizens' Services	421	7.32%

Fifty-one percent (51%) of appointments occurred in Victoria in 2007.

Random Selection of Cases

The objective of the Merit Commissioner study is to sample all permanent new hires, promotions and temporary appointments greater than 7 months in order to obtain an unbiased picture of recruitment practices in the public service. This objective requires a random sample to effectively and efficiently monitor the application of the merit principle in public service recruitment.

Within the objective of selecting a random sample, it is also important to ensure that the sample is representative of the actual population. Appointments could be categorized by classification, ministry or organization, location, ministry size, type of appointment, and whether the appointees are new hires or internal employees. See the section entitled "Distribution of Audits" for comparisons of all 2007 appointments and the sample selection.

The Office of the Merit Commissioner requested BC STATS to produce a sample that was 10% of the total population of appointments. This resulted in a total sample size of 575 appointments.

As in previous years, three key categories were selected, based on their relative importance. It should be noted though that, compared to previous audits, two of the three categories chosen for the 2007 study represent entirely new strata. The decision to alter the sampling methodology was based primarily on two factors: the availability of a substantially increased sample size as compared to earlier audits, and an interest in developing a ministry level analysis of appointments. The categories chosen for this year's audit were:

- Ministry/organization type (this includes 36 separate ministry and/or organizations across the public service),
- Appointment type (direct appointment, permanent or temporary exceeding seven months), and
- Employee type (bargaining unit or excluded).

A 36x3x2 matrix was built to reflect the number of possibilities in each of the above three categories, providing us with 216 "cells" into which appointments can be sorted. However, a large portion of the 216 cells were not incorporated into the final sampling methodology as they did not contain any appointments from which a sample could be taken. Once the empty cells were removed from the sampling plan, a total of 115 cells remained.

To select the cases for audit, each of the 5,752 appointments were allocated to one of the 115 cells. The number of audits within each cell was calculated as the overall selection ratio of (575/5,752) multiplied by the number of cases in the cell. The result of this calculation was rounded to the nearest whole number. This number of cases was then obtained from each cell by sorting in a purely random order and selecting the required number sequentially. While the vast majority of the sample was randomly chosen, directly appointed employees were over-sampled in order to satisfy certain pre-existing selection requirements. As a result, all directly appointed employees were incorporated into the sample, despite representing a relatively small proportion of the overall population.

After the final sample was presented to the Office of the Merit Commissioner for auditing and the appointment information reviewed, 44 cases were identified as being out-of-scope primarily due to coding errors in the source data. These 44 cases were removed from the sample, leaving 531 appointment files that were audited.

However, since 44 records out of 575 cases represents a significant fraction (i.e. 7.7%), BC STATS used the strata information to estimate back into the original population how many cases would likely be deemed to be out-of-scope if in fact the entire population of cases had been audited. The statistics presented in the rest of the report are based on this reduced population (531/5,508).

In summary, random sampling was used to ensure broadly based auditing of all appointments. Sampling independently in the abovementioned categories ensures correct proportional coverage of:

- all 36 ministries and/or organization across the public service,
- permanent, temporary and direct appointments, and
- bargaining-unit versus excluded appointments.
- new hires versus external hires

It should be noted that, due to the fine grained detail offered by the sampling plan, BC Stats was able to obtain representative coverage across several non-stratified categories, including new hires versus external hires. This in turn made it possible to develop a year-over-year analysis across all audits, while still avoiding concerns of over-stratification and statistical bias.

With these considerations in mind, the chance of audit is *virtually* identical for each and every appointment, while the correct proportion of audits remains guaranteed in the most important categories.

Distribution of Audits

The following four tables show how the audits are distributed according to various characteristics of appointments. Three of the four tables (appointment status, employee type, ministry/organization size) represent the categories that were used in sample stratifications for earlier iterations of the study. While the sampling methodology for the 2007 study did differ from previous audits, the data presented below has been organized in a format that reflects the tabulations from earlier versions of this report. This has been done primarily to allow for year over year comparisons to be made between each audit. In all cases, percentages were rounded to the first decimal place, and sum to 100%. The match between the sample percentages and the corresponding percentages among all appointments is quite close, indicating that the sample is reasonably representative of the whole.

Audits by Appointment Status

Appointment Type	Adjusted # of appointments	Percent of all appointments	Number of audits	Percent of all audits
Direct Appointment	3	0.1%	3	0.6%
Temporary > 7 Months	268	4.9%	56	10.5%
Permanent Hire	5,237	95.0%	472	88.9%

Audits by Employee Type

Employee Status	Adjusted # of appointments	Percent of all appointments	Number of audits	Percent of all audits
Internal Hire	4,040	73.3%	401	75.5%
New Hire	1,468	26.7%	130	24.5%

Audits by Ministry/Organization Size

Ministry Size*	Adjusted # of appointments	Percent of all appointments	Number of audits	Percent of all audits
Large	3,928	71.3%	351	66.1%
Small	1,580	28.7%	180	33.9%

* Ministry size was based on total regular employment at the start of the study period. Ministries with 1,000 or more employees were deemed large; ministries with less than 1,000 employees were deemed small.

Audits by Bargaining Unit Status

Bargaining Unit Status	Adjusted # of appointments	Percent of all appointments	Number of audits	Percent of all audits
Bargaining Unit	4,226	76.7%	379	71.4%
Excluded	1,282	23.3%	152	28.6%

Uses and Limitation of Audit Results

Sampling is used to control costs and minimize respondent burden. Auditing competition files after the competitions have been closed is both expensive and time-consuming. Because each file in an audit must be reviewed with the same degree of diligence, there are limited cost savings for conducting a larger sample. A sample four times larger would cost nearly four times more to complete. The appointments selected for audit are a random and representative sample of all appointments in 2007 – the audit selection is unbiased in regards to the sampling framework.

This year more than seven times as many (531) audits were conducted than in 2005 (70), and nearly twice as many than in 2006 (308). As such, this year's findings will provide a much more precise estimate than in previous years. This in turn, will allow for a greater degree of confidence in identifying a number of "merit not applied" and "merit with exception" appointments within the entire population of newly appointed employees. BC Stats will work with the Office of the Merit Commissioner to produce these estimates once the 2007 findings become available.

As such, this year's audit will provide a higher degree of assurance than in past years about the application of merit in the appointment process.

Appendix C: Response from BC Public Service Agency

BRITISH COLUMBIA
BC Public Service

Where ideas work

November 27, 2008

CLIFF #4364

Joy Illington
Merit Commissioner
Office of the Merit Commissioner
PO Box 9037 Stn Prov Govt
Victoria BC V8W 9A3

Dear Joy Illington:

Re: Results of 2007 Audit

Thank you for providing the summary of highlights of the 2007/08 annual audit report and special audit on direct appointments. I also very much appreciated the time that you took to meet with Lynda Tarras, Assistant Deputy Minister, and I to discuss your findings and observations.

Although your audit demonstrates the overarching principle of merit appears to continue to be strongly protected across the public service, I agree with your observations and would like to advise you how we are addressing them.

1. We are emphasizing documentation of hiring decisions by building this requirement into all of our learning programs. We have a checklist on our website and have reinforced the importance of documentation with our HR Consultants who are interacting with managers on an ongoing basis. We've also reviewed this issue with ministry human resource directors to ensure ministry Strategic HR staff are emphasizing this requirement with managers. In addition, we are evaluating communication strategies we've used to date to assist in developing alternate approaches to ensuring hiring managers undertake complete and proper documentation.

2. Steps are underway to simplify the BCGEU calculation for years of continuous service (a factor of merit) for hiring managers so that the "relatively equal" formula is applied consistently. We like the idea you discussed with us about utilizing an electronic calculator that can be used by those assessing years of continuous service. The BC Public Service Agency is currently investigating the development of such a tool with the intent of having it available within our hiring toolkit on @Your Service this fiscal year.

3. I fundamentally agree that all unsuccessful applicants should be notified of the outcomes of the hiring process and we are working to implement this practice. We expect to achieve this by ensuring the process is included in the training of supervisors and managers and also by revising our training materials and hiring processes. This work is currently underway.

4. I am reviewing the process and application of direct appointments. I will be publishing the guidelines and procedures on @Your Service by the end of the calendar year.

We will continue to engage our employees in discussions about these issues with two goals in mind. One, to heighten awareness of the importance of merit based processes, and two, to solicit their ideas on how best to achieve these results.

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BC Public Service Agency
Office of the Associate Deputy Minister
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Once again, we appreciate the time you take to help us understand your findings. We thank you for your encouragement and support for changes in our hiring practices. This level of collaboration and communication will most certainly serve to strengthen the principle of merit and enhance the reputation of the BC Public Service as a great place to work.

Yours truly,

Dave Byng
Associate Deputy Minister

cc: Lynda Tarras, Assistant Deputy Minister, Talent Management Branch, BCPSA
Jessica McDonald, Deputy to the Premier

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